

POINTS RAISED BY:

QUESTION:

**TOPIC NAME: FLYING OF FLAGS AND OTHER EMBLEMS ON
ROADS SERVICE PROPERTY**

LINE TO TAKE:

- The Department for Regional Development does not condone or support unauthorised use of Departmental property for flying of flags, bunting or other emblems.
- The desirability for the Department to meet its obligations to promote good community relations under Section 75 of the Northern Ireland Act 1998 has to be balanced against issues such as duty of care to staff/contractors if they are asked to remove flags, bunting etc.
- Without the unanimous support of the PSNI, local community and elected representatives, work carried out to remove material, is likely to prove nugatory and counter productive and can also lead to a greater proliferation of such activity.

BACKGROUND:

1. The display of paramilitary flags and other emblems creates tension within and between communities.
2. Departments and Agencies working alone cannot deal with the problem.

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QUESTION:

TOPIC NAME: **PARAMILITARY FLAGS AND EMBLEMS**

LINE TO TAKE:

- Paramilitary flags and emblems have no place in Northern Ireland.
- They intimidate and strike fear in communities. Also, act as a major disincentive for would be investment.
- Welcome the successful conviction of 4 individuals – under Article 13(1) of the Terrorism Act 2002. The charges related to the erection of LVF flags in the Loughview Estate, Holywood.
- Recognise that without the support of local community, elected representatives and police working together it is difficult (and often counterproductive – may lead to proliferation of flags) to deal with the issue of paramilitary flags.

BACKGROUND

There exists a small body of statute law relating to the flying of flags, but there is nothing that deals directly with flags flown on street lamp posts or the painting of wall murals. The law includes, for example:

Intimidation

Section 1 of the Protection of the Person and Property (NI) Act 1969

make sit a custodial offence if someone unlawfully causes by force or threatens another to leave their place of occupation, their workplace or job, or make them do or refrain from doing any act.

Stirring up hatred or arousing fear

Article 9 of the Public Order (NI) 1987 makes it a summary offence to use threatening, abusive or insulting words or behaviour, or display and written material which is threatening, abusive or insulting if the accused intends thereby to stir up hatred or arouse fear, or, having regard to all the circumstances, hatred is likely to be stirred up or fear is likely to be aroused thereby.

Article 19 of the Public Order (NI) Order 1987 is a similar provision and relates to a person in any public place.

Harrassment

Article 3, Protection from Harrassment (NI) Order 1997

Similar to the English Protection from Harassment Act 1997

Support for a proscribed organisation

If it can be proven beyond reasonable doubt that a person through flying a flag or similar activity invites support for a proscribed organisation then they commit a criminal offence under **section 12 (1) of the Terrorism Act 2000**. Further if a person in a public place wears, carries or displays an article, in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation then he or she is guilty of an offence under **section 13 (1)**.

Draft Criminal Justice (NI) Order 2004

The draft legislation will provide the courts with powers to impose heavier sentences when an offence is aggravated by hostility based on the victim's actual or presumed religion, race, sexual orientation (and disability)

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**TOPIC NAME: ERECTION OF TRADITIONAL ARCHES OVER AND
ACROSS PUBLIC ROADS**

LINE TO TAKE:

- Any structure erected over, along, or across a public road is illegal unless it is erected with the consent of the Department under Article 73 of the Roads (Northern Ireland) Order 1993, the primary considerations of which are to secure the safety of those using the road.
- Evidence of insurance, outline drawings of the structure and an engineer's certificate as to the safety of the structure are required before consent can be issued. The consent process also includes seeking police advice and any other material information available to inform the decision making process taking account of local issues. The Department is also required to take account of the Northern Ireland Act 1998 and Human Rights Act 1998 obligations.
- Efforts are made to identify the person(s) responsible for the erection of illegal arches with a view to encouraging compliance with the requirements of the legislation.

BACKGROUND:

1. In June 2003 the Department's Roads Service issued revised guidance for Section Engineers which reflected the outcome of a Judicial Review hearing and subsequent appeal relating to the erection of a traditional arch in Glengormley in 2001 and legal advice provided as a result of this case.

2. Roads Service publish press notices each year advising that the consent of the Department (obtainable from Section Offices) is required for the erection of traditional arches over roads.
3. In cases where assessments have to be made and decisions taken, the Department will frequently have to consider a range of issues, which may conflict with each other. It is necessary therefore to decide according to the particular facts and circumstances. In every case the safety of road users is of paramount importance.

- Paraffin flags are sectarian and intimidatory, they portray a poor image of an area and discourage investment.
- Without the unanimous support of the PSNI, local community and elected representatives, work carried out to remove material is likely to prove nugatory and counter productive and can also lead to a greater proliferation of such activity.
- However, OFMDFM in conjunction with other Departments and Agencies is actively reviewing roles, responsibilities and the legal position with regard to the flying of such flags and the display of other emblems.
- Measures to tackle the problem will be brought forward in context of the new cross-Departmental 'Good Relations' strategy which is currently being developed and will be published within the next few months.

BACKGROUND:

1. The law on the display of flags and emblems is set down in Article 19 of the Public Order (N.I.) Order 1987 this provides a basis for

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**TOPIC NAME: RESPONSIBILITY FOR THE REMOVAL OF
PARAMILITARY FLAGS AND EMBLEMS**

LINE TO TAKE:

- Paramilitary flags are sectarian and intimidatory, they portray a poor image of an area and discourage investment.
- Without the unanimous support of the PSNI, local community and elected representatives, work carried out to remove material, is likely to prove nugatory and counter productive and can also lead to a greater proliferation of such activity.
- However, OFMDFM in conjunction with other Departments and Agencies is actively reviewing roles, responsibilities and the legal position with regard to the flying of such flags and the display of other emblems.
- Measures to tackle the problem will be brought forward in context of the new cross-Departmental 'Good Relations' strategy which is currently being developed and will be published within the next few months.

BACKGROUND:

1. The law on the display of flags and emblems is set down in Article 19 of the Public Order (N.I.) Order 1987 this provides a basis for

prosecutions to be brought where it can be proved that there is an intention to cause a breach of the peace.

2. The Housing Executive and Roads Service have requirements under Equality Legislation, in particular the Fair Employment and Treatment Order (NI) 1998, to remove flags, murals and graffiti from their property in order to help create and maintain neutral living environment.
3. The Department for Regional Development's Roads Service Division has a responsibility for maintaining lampposts and kerbstones and this includes the removal of flags.
4. The Housing Executive is responsible for the removal flags, emblems and murals on its public housing and other property.
5. The flying of flags from other buildings, whether publicly or privately owned, is not expressly regulated by statute. The District Councils have no obligation to fly flags on their property.
6. The display of flags, despite the adverse impact on community relations, has often been tolerated as a lesser evil to removing flags which could result in local disturbances, danger to the safety of those removing the flags and the possibility of the flags merely being replaced within a few days or even hours.
7. The display of politically sensitive flags and emblems in the workplace may raise issues under the Fair Employment and Treatment (NI) Order 1998 of unlawful discrimination in employment, and in the delivery of goods, facilities and services by District Councils and other public sector bodies.

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TOPIC NAME: SECTARIAN GRAFFITI AND MURALS

LINE TO TAKE:

- Government is committed to working with local communities where there is a clear desire to remove sectarian emblems and symbols. The Greater Shankill Clean-Up Forum provides a good example of how Departments, Agencies and the local community can work together to combat this problem. There are many other examples across District Council areas.
- Measures to tackle this problem will be brought forward in the forthcoming new cross-Departmental 'Good Relations' strategy.
- The Community Action Group initiated an Environmental Improvement Fund, administered by the Creating Common Ground Consortium. Projects supported through this fund have helped to transform the environments of local communities.

BACKGROUND:

1. The 2001 Northern Ireland Crime Survey identified vandalism/graffiti as a 'very or fairly big' problem for those responding and is one of the issues to be addressed in the Anti-Social Behaviour Order.
2. Since May 2003 the Greater Shankill Clean-Up Forum has been working with schools and community groups in the Shankill area to remove paramilitary related murals and graffiti. To date, 27 threatening

loyalist murals have been removed together with much sectarian graffiti and 7,000 metres of painted kerbstones.

3. The Community Action Group initiated an Environmental Improvement Fund, administered by the Creating Common Ground Consortium, (a unique and strategic partnership of key statutory and voluntary agencies including the Northern Ireland Housing Executive, Community Relations Council, Groundwork Northern Ireland, Northern Ireland Voluntary Trust, Northern Ireland Office, DSD, DARD and Business in the Community). Projects supported through this fund have helped to transform the environments of local communities.